

Arkansas State University - Jonesboro

Effective Date: 10/20/2008

Number: 07-27

Section: Human Resources

Subject: Permanent Residency Support

Background:

Arkansas State University must establish a campus procedure on the issue of permanent residency as a result of the campus' growing employment of international employees and the implementation of new regulations governing the employment of such individuals. Arkansas State University's recent report to the Institute for International Education revealed that 41 international faculty, researchers, and staff were employed by the university during the past fiscal year. Additionally, new regulations¹ promulgated by the Department of Labor, effective July 2007, require employers to pay for the recruitment and attorney fees involved in filing labor certification applications for all employees seeking permanent residency status. These applications carry an approximate cost of \$3,000 each and represent the University's first step in filing a petition for lawful permanent residency on behalf of international employees.

Individuals holding *Lawful Permanent Residency* status are known as "permanent residents", "resident aliens" or "green card holders." *Lawful Permanent Residency* status allows an individual to live and work in the US without the time limitation associated with international status. Employment-based *Lawful Permanent Residency* requires employer sponsorship, permanent residency petitions are generally contingent upon a full-time, long-term employment relationship. Since the University files the application on behalf of the international employee, the sponsorship should be in the best interest of the University, consistent with the needs of the institution.

Purpose:

The purpose of the procedure is to: (1) Clarify the University's role in supporting faculty, staff and researchers who are petitioning to apply for permanent residency; (2) Identify positions for which Arkansas State University will provide employer-based permanent residency sponsorship; and (3) Establish procedures for requesting and obtaining approval for the processing of employer-based permanent residency petitions.

Procedure:

The University will provide support to faculty and staff members seeking permanent residency status. Permanent residency petitions will be processed based upon an official request by the head or director of the department employing the international, with approval from the College Dean, and the appropriate Vice Chancellor. Since this is

a university-wide initiative, support for the initiative will be provided from a designated university fund. Support from this fund will be allocated on a first-come, first-served basis until the funds allocated for the year have been exhausted. Additionally, support will be limited to the amount agreed upon with the authorized University Legal Counsel.

Applications for permanent residency will be facilitated by the Faculty Immigration Specialist through University Counsel. **A petition for permanent residency may only be filed for an employee who serves in a permanent, full time professional position.** “**Professional**” is defined to be any position which clearly requires a Bachelor’s Degree or higher in the same field as the degree. “**Permanent**” is defined to include faculty or staff positions that are expected to continue indefinitely, and in which the employee intends to remain indefinitely. “Adjunct”, “Visiting”, “Temporary” or “Interim” positions do not meet the definition of permanent. [Note: Post-doctoral positions and grant funded positions are not considered permanent; however, some grant funded positions are eligible for sponsorship as long as there is enough money in the grant to cover all costs.]

1. The employee will be eligible to pursue permanent residency status after being employed one full year with Arkansas State University.
2. After initial approval by the appropriate Vice Chancellor, and after consultation with the hiring department and Dean, the Human Resource Department will work with University Legal Counsel to determine the most appropriate category of employment-based immigration to be used for the application.
3. All costs related to the Labor Certification application, including advertising, recruitment and attorney fees, will be paid by the University as required by Federal Regulations.
4. All additional costs associated with the application for permanent residency, including attorney, application fees, must be paid by the employee. The University will not pay any costs associated with applications filed on behalf of dependents of the employee.
5. A private attorney may be engaged to represent the University in permanent residency petition as long as it is a self-petition. If it is an employer-based petition, ASU’s attorney will file the Labor Certification and the rest of the process can be handled by the private attorney. There will be no authorization of representation by any attorney who has not been approved in advance.

To initiate a request for legal permanent residency, the following steps must be followed:

1. The employing department will complete an “Authorization to Engage Representation by Attorney” Form. The form will be signed by the appropriate Vice Chancellor. In addition, the employing department will provide supporting documentation such as: Rationale for the request, title of the position in question,

credentials of the individual on whose behalf the petition will be filed; and a statement describing the individual's abilities and qualifications. If the request is approved, the authorization form will be sent to University Legal Counsel.

2. University Legal Counsel will notify Contracted Legal Counsel and Human Resources of the request to petition for permanent residency. Contracted Legal Counsel will determine the most appropriate category of employment-based immigration to be used for the application process.
3. Contracted Legal Counsel will request supporting information as necessary through the Human Resource Department.
4. The Human Resource Department will work with the employing department and the nonimmigrant employee to obtain all necessary forms and supporting documentation as requested by the Legal Counsel.
5. If advertising is necessary, Human Resources in conjunction with the Employing
6. Department will request any necessary recruitment assistance.

¹ *Labor Certification for the Permanent Employment of Aliens in the United States; Reducing the Incentives and Opportunities for Fraud and Abuse and Enhancing Program Integrity (20 CFR Part 656)*